

DFCM FACILITY USE PERMIT

Please complete all items listed below and submit to: **Division of Facilities Construction and Management**

Attention:

Facility Affected:

Checks/Money Orders for Permit Fees should be made out to: D.F.C.M.

1. Name of Organization
2. Name of Contact Person
3. Phone Numbers - Work Home
4. Address City State Zip
5. Building or Grounds Area Requested
6. Type of Function
7. Date Being Requested Start Time Ending Time
8. Number of Anticipated Participants:
9. Equipment and/or Services to be Used (Please attach list of needed)
10. Insurance Company, Name and Policy # (if applicable)
11. Free Speech Function ☐ Fee Waived ☐
12. I understand that the facility used will be inspected after all scheduled functions. Applicant shall be held responsible for all damages caused by applicant's function.

I hereby understand and agree to the above. I also understand and agree to abide by all rules and regulations pertaining to use of the facility, a copy of which was received upon making application for use of the facility and/or grounds.

Applicant Signature _____ Date _____
13. Managing Agency Approval _____ Date _____

R23. Administrative Services, Facilities Construction and Management.

R23-19. Facility Use Rules.

R23-19-1. Purpose.

The purpose of this rule is to regulate the use of state facilities and grounds as defined below, providing rules regarding political signs, as well as authorizing written policies to be created pursuant to this rule.

R23-19-2. Authority and Applicability.

- (1) This Rule is authorized under Sections 63A-5-103 and 63A-5-204 which authorizes the making of rules regarding the use and management of state facilities and grounds owned or occupied by the State for the use of its department and agencies.
- (2) This Rule shall apply to all state facilities and grounds except as follows:
 - (a) To the extent not authorized by law or the Utah Constitution, this Rule does not apply to state facilities and grounds under the jurisdiction of the legislative and judicial branches of the State of Utah government.
 - (b) This Rule does not apply to state facilities and grounds under the jurisdiction of the Utah State Board of Regents.
 - (c) This Rule does not apply to state facilities and grounds under the jurisdiction of the Capitol Preservation Board.
 - (d) This Rule does apply to state facilities and grounds under a lease to the extent consistent with the lease agreement, as the lease agreement shall control the use of the property under the lease. Notwithstanding this, the requirements of the constitutions of the United States and the State of Utah shall supersede the provisions of any such lease agreement and in particular, in the exercise of freedom of speech or assembly rights under such constitutions in any such leased facilities and grounds, the provisions of this rule regarding time, place and manner shall apply.

R23-19-3. Definitions.

- (1) "Agency" means a State of Utah department, division or agency.
- (2) "DFCM" means the Division of Facilities Construction and Management, a division within the Department of Administrative Services.
- (3) "Event" or "events" are commercial, community service, private and state sponsored activities involving one or more persons. A free speech activity is not an event for purposes of this rule. The term "activity" or "activities" may be substituted in this rule for the term "event" or "events."
- (4) "Facility Use Application" means a form, if required by the policies of the Managing Agency, which may require information identifying the event, time, location and purpose for a facility use permit that needs to be completed by a prospective user and submitted to the Managing Agency of the State Office Building.
- (5) "Facility Use Permit" ("Permit") means a written permit issued by the Managing Agency authorizing the use of an area of state facilities and grounds for an event in accordance with this rule.

- (6) "Freedom of Speech Activity" is as defined in Rule R23-20.
- (7) "State Sponsored Activity" means any event sponsored by the state that is related to state business. This does not include extra-curricular activities.
- (8) "Private Activity" means an event sponsored by private individuals, business or organizations that is not a commercial or community service activity.
- (9) "Managing Agency" means the agency responsible for the management, operations and use of the facility. If DFCM is responsible for the maintenance of state facilities and grounds, the agreement between DFCM and the occupying agency shall identify the "Managing Agency."
- (10) "State Facilities and Grounds" means State of Utah facilities and/or grounds where the principal use of the facility and/or grounds is related to state office or program functions or is under the control of any State of Utah agency; all of which is subject to the exclusions of Rule R23-19-2(2).
- (11) "Community Service Activities" means events sponsored by governmental, quasi-governmental and charitable organizations, city and county government departments and agencies, public schools, and charitable organizations held to support or recognize the public or charitable functions of such sponsoring group.
- (12) "Commercial Activities" means events that sponsored or conducted for the promotion of commercial products or services, and include advertising, private parties, private company or organization meetings, and any other non-public organization event. Commercial activities do not include private, community service, state sponsored, or free speech activities.
- (13) "Political Sign" means a sign regarding a candidate for political office or regarding a political issue to be considered in an election.
- (14) "Commercial Solicitation" is as defined in rule R23-19-6.
- (15) "State" means the State of Utah and any of its agencies, departments, divisions, officers, and legislators, members of the judiciary, persons serving on state boards or commissions, and employees of the above entities and persons.

R23-19-4.State Office Building Use Requirements.

- (1) The Managing Agency may adopt policies, which require a Facility Use Permit to be submitted. Such policies may provide for a waiver of the policy adopted under this Rule R23-19-4(1) under criteria specified in the policies. The policies may specify the form of the application, including:
 - (a) The time, place, purpose and scope of the proposed activity;
 - (b) Whether the applicant requests a waiver of any requirement of this rule or provision of the Facility Use Permit;
 - (c) A certificate of liability insurance in the amount of \$1,000,000 per occurrence, except for Freedom of Speech Activities where no insurance is required; and
 - (d) Any required fee subject to the following:
 - (i) Fees may be assessed for the use of state facilities and grounds through the written policies of the

Managing Agency. When any activity is subject to a fee, the Managing Agency should consider at a minimum the actual cost to the State including utilities, janitorial, security and rental cost for equipment. The following applies to specific activities:

- (i) "Freedom of Speech Activities." There are no fees for freedom of speech activities, but costs for requested use of state equipment or supplies may be assessed through the uniformly applied policies of the Managing Agency.
 - (ii) "Commercial Activities" or "Private Activities" shall be assessed a fee, which is reasonably comparable to fees charged for similar activities within the County of the state facilities and grounds. There shall be no fee waiver allowed for commercial or private activities.
 - (iii) "Community Service Activities" shall be assessed a fee of 50 percent of the fee for a commercial activity and such fee may only be waived if requested in a facility use application and granted by the approving authority. There shall be no waiver of the fee related to the costs of requested use of state equipment and supplies, which is assessed through the uniformly applied policies of the Management Agency.
 - (iv) "State Sponsored Activities." There are no fees for state sponsored activities, except that state agencies will be required to pay the costs and fees identified in the uniform policies of the Management Agency when the activity is not required for the conducting of state business, such as after-hour social events, employee recognition events, and holiday parties.
- (2) The proposed activity shall not interfere with the operation of governmental business or public access. No persons shall unlawfully intimidate or interfere with persons seeking to enter or exit any facility, or use of any state facilities and grounds.
 - (3) The consumption, distribution or open storage of alcoholic beverages in state facilities and grounds is prohibited. This provision shall not apply to state facilities and grounds under the jurisdiction of the Department of Alcohol Beverage Control or golf courses under the Division of Parks and Recreation.
 - (4) Open flames, flammable fluids, candles, burning incense or explosives are prohibited.
 - (5) No displays, including but not limited to signs, shall be affixed to state facilities and grounds.
 - (6) User shall not sublet any part of the premises or transfer or assign the premises or change the purpose of the permitted activity without the written consent of the state.
 - (7) Alteration and damage to a state facilities and grounds including grass, shrubs, trees, paving or concrete, is prohibited.
 - (8) All costs to repair any damage or replace any destruction, regardless of the amount or cost of restoration or refurbishing shall be at the expense of the persons(s) responsible for such damage or destruction.
 - (9) Service animals are permitted, but the presence of other animals is allowed only with advance written permission of the Managing Agency. Owners/caretakers are responsible for the safety to the animal, persons, grounds and facilities.
 - (10) Littering is prohibited.
 - (11) Decorations.
- (a) All cords must be taped down with 3M #471 tape or equivalent as determined by the Managing Agency.

- (b) There shall be no posting or affixing of placards, banners, or signs attached to any part of any building or on the grounds. All signs or placards shall be hand held. Signs or posters may not be on sticks or poles.
 - (c) No adhesive material, wire, nails, or fasteners of any kind may be used on the buildings or grounds.
 - (d) Nothing may be used as a decoration, or be used in the process of decorating, that marks or damages structure(s).
 - (e) All decorations and supporting structures shall be temporary.
 - (f) Any writing or use of ink, paint or sprays applied to any area of any building is prohibited.
 - (g) Users may not decorate the outside of any facility or any portion of the grounds.
 - (h) Signs, posters, decorations, displays, or other media shall be in compliance with the state law regarding Pornographic and Harmful Materials and Performances, Section 76-10-1201 et seq.
- (12) Set up/Clean up.
- (a) All deliveries and loading/unloading of materials shall be limited to routes and elevators as specified by the Managing Agency.
 - (b) All decorations, displays and exhibits shall be taken down by the designated end time of the event in a manner that is least disruptive to state business.
 - (c) Users shall leave all state facilities and grounds in its original condition and appearance.
- (13) Parking. There must be compliance with the written parking requirements adopted by the Managing Agency.
- (14) Compliance with Laws.
- (a) Users shall conform to all applicable and constitutional laws and requirements, including health, safety, fire, building and other codes and similar requirements. Occupancy limits as posted in or applicable to any public area will dictate, unless otherwise limited for public safety, the number of persons who can assemble in the public areas. Under no circumstance will occupancy limits be exceeded. State security personnel shall use reasonable efforts to ensure compliance with occupancy, safety, and health requirements.
 - (b) Safety requirements as used in this rule include safety and security requirements made known to the Managing Agency by the Utah Department of Public Safety or the federal government for the safety and security of special events and/or persons.
 - (c) "No Smoking" statutes, rules and policies, including the Utah Indoor Clean Air Act, Section 26-38 et seq. shall be observed.
 - (d) All persons must obey all applicable firearm laws, rules, and regulations.
- (15) Security and Supervision at Events.
- (a) The Managing Agency may adopt written policies regarding security requirements for events, which must be followed.
 - (b) At least one representative of the applicant identified in the application and permit shall be present during the entire activity.

(16) Photography, Portraits and Video/Filming.

(a) Any photography, videotaping or filming, shall require advance notice to, and permission from the Managing Agency for scheduling.

(b) This Subsection (16) shall not apply to tourists and does not apply to the extent it is the exercise of a free speech activity.

(17) Commercial, Private and Community Service Activities. A Managing Agency may determine through its written policies to categorically not allow any commercial, private and/or community service activities. However, if commercial or private activities are allowed, then community service activities shall be allowed subject to all the requirements of this rule and a facility use permit.

(18) Liability.

(a) The state, Managing Agency and their designees, employees and agents shall not be deemed in default of any issued permit, or liable for any damages if the performance of any or all of their obligations under the permit are delayed or become impossible because of any act of God, terrorism, war, riot or civil disobedience, epidemic, strike, lock-out or labor dispute, fire, or any other cause beyond their reasonable control.

(b) Except as required by law, the state shall not be responsible for any property damage or loss, nor any personal injury sustained during, or as a result of, any use, activity or event.

(c) Users/applicants shall be responsible for any personal injury, vandalism, damage, loss, or other destruction of property caused by the user or an attendee at the applicant's event.

(19) Indemnification. Individuals and organizations using any state facilities and grounds do so at their own risk and shall indemnify and hold harmless the state from and against any and all suits, damages, claims or other liabilities due to personal injury or death, and from damage to or loss of property arising out of or resulting from the conduct of such use or activities on the Capitol Hill Complex.

(20) Enforcement of Rules. If any person or group is found to be in violation of any of the applicable laws and rules, a law enforcement officer or state security officer may issue a warning to cease and desist from any non-complying acts. If the law enforcement or security officer observes a non-compliant act after a warning, the officer may take disciplinary action including citations, fines, cancellations of event or activity, or removal from the state facility and grounds.

R23-19-5. Facility Use Permit - Denial - Appeal - Cancellation - Revocation - Transfer.

(1) Within ten (10) working days of receipt of a completed application, the Managing Agency shall issue a Facility Use Permit or notice of denial of the application.

(2) The Managing Agency may deny an application if:

(a) The application does not comply with the applicable rules;

(b) The event would conflict or interfere with a state sponsored activity, a time or place reserved for freedom of speech activities, the operation of state business, or a legislative session; and/or

(c) The event poses a safety or security risk to persons or property.

(3) The Managing Agency may place conditions on the approval that alleviates such concerns.

(a) If the applicant disagrees with a denial of the application or conditions placed on the approval, the applicant may request a reconsideration of the Managing Agency's determination by delivering the written request for reconsideration and reasons for the disagreement to the Managing Agency within five (5) working days of the issuance of the notice of denial or approval with conditions.

(b) Within ten (10) days after the Managing Agency receives the written request for reconsideration, the Managing Agency may modify or affirm the determination.

(c) If the matter is still unresolved after the issuance of the Managing Agency's reconsideration determination, the applicant may appeal the matter, in writing, within ten (10) calendar days to the Executive Director of the Department of Administrative Services who will determine the process of the appeal.

(5) Facility Use Permits are non-transferable. The purpose, time, place and other conditions of the Facility Use Permit may not be changed without the advance written consent of the Managing Agency.

(6) An event may be re-scheduled if the Managing Agency determines that an event will conflict with a governmental function, free speech activity or state sponsored activity.

(a) The Managing Agency may revoke any issued permit if this rule R23-19, any applicable law, or any provision of the permit is being violated. The permit may also be revoked if the safety or health of any person is threatened.

(b) The permittee may cancel the permit and receive a refund of fees, less any incurred costs to the state or managing agency, and any deposits if written notice of cancellation is received by the Managing Agency at least 48 hours prior to the scheduled event. Failure to timely cancel the event will result in the forfeiture of any deposit and fees.

R23-19-6. Commercial Solicitation Policy.

(1) In general, commercial solicitation is prohibited.

(2) Nothing in this rule shall be interpreted as to infringe upon anyone's constitutional right of freedom of speech and freedom of association.

(3) In addition to the definitions in R23-19-3 above, the following definitions shall also apply to this Rule R23-19-6:

(a) "Commercial Solicitation(s)" means any commercial activity conducted for the purpose of advertising, promoting, fund-raising, buying or selling any product or service, encouraging membership in any group, association or organization, or the marketing of commercial activities by distributing handbills, leaflets, circulars, advertising or dispersing printed materials for commercial purposes.

(b) "Commercial Solicitation" for the purpose of this rule does not include free speech activities as defined in rule R23-20, Utah Administrative Code.

(c) "Commercial Solicitation" for the purpose of this rule does not include filming or photographic activities, but such activities shall be subject to rule R23-19 et seq.

(d) "Commercial Solicitation" for the purpose of this rule does not include solicitation by the state or federal government; solicitation related to the business of the state, solicitation related to the procurement responsibilities of the state, solicitation allowed as a matter of right under applicable federal or state law; or solicitation made pursuant to a contract or lease with the state.

(4) Commercial Solicitation Allowed under a Facility Use Permit.

(a) Commercial solicitation, not prohibited by R23-19-6(5) below, may be allowed in conjunction with the issuance of a facility use permit under rule R23-19 and such commercial solicitation must comply with the facility use rules of R23-19-1 et seq.

(b) All materials allowed shall be displayed only on bulletin boards or in areas that have been approved in advance by the Managing Agency.

(c) The issuance of a facility use permit shall not be construed as state endorsement of the solicitor's product, service, charity or event.

(d) Soliciting activities are subject to all littering laws and regulations.

(5) Prohibited Commercial Solicitation. The following commercial solicitation activities are prohibited and no facility use permit shall be issued for such:

(a) Door-to-door commercial solicitation of items, services or donations.

(b) Commercial solicitation to persons in vehicles or by leaving any commercial solicitation materials on vehicles or parking lots.

(c) Any sale of food or beverage products that would be in any violation of any contract entered into by the State or the Managing Agency.

R23-19-7. Waivers.

(1) The Managing Agency may waive, in writing, the requirements of any provision of this Rule R23-19 upon being presented with compelling reasons that the waiver will substantially benefit the public of the state of Utah and that the facilities, grounds and persons will be appropriately protected. Conditions may be placed on any approved waiver to assure the appropriate protection of facilities, grounds and person. An appeal of a denial of a request for such waiver may be filed and processed similarly to the denial of a Facility Use Permit as described in R23-19-5.

(2) Costs and fees shall be waived for state sponsored activities. However, state agencies will be required to pay the costs and fees identified in the Schedule of Costs and Fees when the activity is not required for the conducting of state business, such as after-hour social events, employee recognition events, and holiday parties. Costs and fees will not be waived for commercial, private and commercial solicitation activities.

(3) Notwithstanding the waiver provisions of this rule, the following may not be waived by the Managing Agency: R23-19-4(2), (4), (7), (8), (9), (10), (14), (15), (17), (18), (19) and (20) as well as R23-19-6.

R23-19-8. Political Signs.

Political signs, except for hand-carried signs during permitted events under a Facility Use Permit, are prohibited on all State of Utah owned properties except as allowed under a Freedom of Speech Activity or as protected under the State of Utah or United States Constitutions.

Rule R23-19-8(1) shall not apply to Utah Department of Transportation right-of-ways, properties of the State and Institutional Trust Lands Administration or properties of Higher Education, any of which may have its own laws or rules applicable to political signs.

KEY: public buildings, facilities use

Date of Enactment or Last Substantive Amendment: June 7, 2007

Notice of Continuation: May 24, 2007

Authorizing, and Implemented or Interpreted Law: 63A-5-103; 63A-5-204

R23. Administrative Services, Facilities Construction and Management.

R23-20. Free Speech Activities.

R23-20-1. Purpose.

(1) The purpose of this rule is to:

(a) facilitate constitutionally protected free speech and assembly at state facilities and grounds.

(b) preserve the right of every person to exercise free speech and freedom of assembly as protected by the constitutions of the state of Utah and the United States subject to lawful time, place and manner rules regarding free speech activities necessary to protect the public health, safety and welfare, including safety and security considerations, the rights of others to exercise free speech and freedom of assembly, and minimizing the disruption to governmental business;

(c) facilitate public assembly and communication between people;

(d) designate areas under the Managing Agency's control, for free speech activities as specified in this rule that are necessary to protect the public health, safety and welfare, including safety and security considerations, the rights of others to exercise free speech and freedom of assembly, and minimizing the disruption to governmental business; and

(e) establish guidelines to facilitate constitutionally protected free speech activities and public assembly.

(2) This rule is intended to further the following governmental interests:

(a) to facilitate constitutionally protected free speech activities and public assembly;

(b) to provide for lawful time, place and manner rules regarding free speech activities necessary to protect the public health, safety and welfare;

(c) to provide safety and security of all persons visiting or using state facilities and grounds;

(d) to minimize disruption to or interruption of the conduct of state business;

(e) to maintain unobstructed and efficient flow of pedestrian and vehicular traffic between and within state facilities and grounds in order to provide safety and security of persons, emergency vehicle access, and assure accessibility to public services;

(f) to provide all persons their guaranteed right of free speech and freedom of assembly without harm or interruption; and

(g) to inform persons of their responsibilities regarding littering, damage to, and vandalism of state facilities and grounds.

R23-20-2. Authority.

This rule is adopted pursuant to the authority granted to the Board under Sections 63A-5-103 and 63A-5-204. The Managing Agency may adopt policies and procedures to implement this rule.

R23-20-3. Definitions.

The definitions of rule R23-19-3 shall apply to this rule R23-20. In addition, the following definitions shall apply for purposes of this rule:

- (1) "Free Speech" and "Freedom of Assembly" means the exercise of free speech and freedom of assembly as protected by the constitutions of the state ofUtahand theUnited States.
- (2) "Free Speech Activity" or "Free Speech Activities" means the use of an area of the state facilities and grounds for a demonstration, rally, leafleting, press conference, vigil, march or parade that is available for such activity under this rule, by one or more persons for constitutionally protected free speech or assembly.
- (a) "Advanced Planned Free Speech Activity" means a free speech activity that can be reasonably scheduled in advance of its occurrence, such that the Managing Agency may lawfully require compliance with certain requirements as specified in this rule.
- (b) "Short-Notice Free Speech Activity" means a free speech activity that arises out of, or is related to events or other public issued activities which cannot be reasonably anticipated far enough in advance of the occurrence to reasonably allow compliance with the requirements for an advanced planned free speech activity.
- (3) "Demonstration" means the assembly of a group of individuals that join together to express a point of view openly.
- (4) "Rally" means to hold an open gathering of a group of individuals of similar purpose to join together to express a point of view openly.
- (5) "Leafleting" means the continuous unsolicited distribution of leaflets, buttons, handbills, pamphlets, flyers or any other written or similar materials indiscriminately to pedestrians or passers by.
- (6) "Press Conference" is an organized formal assembly called by an individual or group to announce or express a point of view to the public utilizing the press and other media.
- (7) "Vigil" means an assembly of an individual or individuals who come together to demonstrate their solidarity by an occasion or devotional watching or observance.
- (8) "March" or "Parade" means the organized assembly of individuals who are celebrating or expressing a point of view while moving from one location to another.
- (9) "Public Areas" are all areas of the state facilities and grounds open to the public.

R23-20-4. Free Speech and Freedom of Assembly; In General.

Unless specifically regulated by this rule as to time, place or manner, all free speech and freedom of assembly may occur in all areas of the state facilities and grounds in any lawful form or manner as guaranteed by the constitutions of the state ofUtahand theUnited States.

R23-20-5. Time, Place, and Manner of Free Speech Activities.

(1) Free Speech and Assembly Promoted and Encouraged. Free speech and freedom of assembly, as protected by the constitutions of the state of Utah and United States, is promoted and encouraged at state facilities and grounds. Free speech activities, as specifically defined in this rule, are subject to lawful time, place and manner rules regarding free speech activities necessary to protect the public health, safety and welfare, including safety and security considerations, the rights of others to exercise free speech and freedom of assembly, and minimizing the disruption to governmental business.

(2) Subject to Facility Use Rules, Exception. Free speech activities shall be subject to R23-19-1 et seq., except that, in the case of conflict, the provisions of this rule R23-20 shall control.

(3) Time.

(a) Free speech activities held outdoors may take place 24 hours a day subject to duration requirements specified in this rule.

(b) Free speech activities held indoors may take place during the hours such public areas are open to the public, generally between 8:00 a.m. to 5:00 p.m.

(4) Place.

(a) Health, safety and welfare restricted areas that may not be reserved for a free speech activity are the vehicular traveled portions of roads, roadways or parking lots, areas directly in front of or adjacent to parking garages' entrances or exits, paths of egress or access to emergency stairs and emergency egress hallways, areas under construction which are hazardous to non-construction workers, and those specific portions of the state facilities and grounds that contain storage, utilities and technology servicing the state facilities and grounds or other areas, which either must be available for prompt repair, are not open for public use or represent a danger to members of the public.

(b) In order to protect the public health, safety and welfare and allow for public accessibility to and the conduct of state business, a demonstration, rally, parade, march or vigil may only be conducted on the public areas of the grounds and not inside the facilities.

(c) Notwithstanding any other provision of this rule, there is no registration requirement for free speech leafleting. In order to protect the public, health, safety and welfare and allow for public accessibility to and the conduct of state business, free speech activity leafleting, as defined in this rule, is allowed at state facilities and grounds in the areas open to the public, without interference from state security, provided that it is done in a non-aggressive manner and does not prevent other individuals from passing along sidewalks and through doorways. The state is allowed to enforce any and all applicable statutes and ordinances regarding blocking public sidewalks, blocking hallways, disorderly conduct, blocking entrances to public buildings, garage entries, assault, battery and the like consistent with the requirements of the constitutions of the state of Utah and the United States. Leafleting is not allowed by placing leaflets on vehicles on the state facilities and grounds.

(5) Manner.

(a) Registration and Scheduling.

(i) All free speech activities shall comply with the following requirements, except that leafleting shall not be subject to any registration requirements.

(ii) An advanced planned free speech activity shall register as soon as reasonably possible, but not less than seven (7) days in advance of the free speech activity by registering with the Managing Agency.

(iii) Persons registering will provide the following information: the name of the sponsoring organization; the name and contact information of a contact person or agent; the type of free speech activity; the date, time and duration of the free speech activity; the public area requested for use; the number of anticipated participants; and a list of equipment and services to be used in connection with the free speech activity. Registration shall be on a standard form prepared by the Managing Agency.

(iv) If a person or group fails to register due to a short-notice free speech activity, they may still conduct the free speech activity provided it does not create a problem of public safety or interfere with the time and location of a previously scheduled free speech activity in the same public area and meets all the other requirements of this rule. In the case of such problem of public safety or interference, the Managing Agency will coordinate with the applicant in reasonable efforts to find an alternative reasonable time or location.

(b) Priority.

(i) The scheduling assignment of public areas shall be made on a first-come, first-serve basis.

(ii) In the case of scheduling conflicts, first priority in the use of the public areas shall be given to government business and/or state sponsored activities where the authorized governmental official is reserving the public area for an expressed governmental or state need. Free speech activities shall be given priority over community service, commercial and private activities. In the case of such problem of public safety or interference, the Managing Agency will coordinate with the applicant in reasonable efforts to find an alternative reasonable time or location.

(iii) No group or individual will be denied access to or use of a public area unless the proposed free speech activity violates this rule, applicable law, conflicts with a scheduled state sponsored activity, or conflicts with the time and location of a previously scheduled free speech activity.

(c) Consistent with the protections of the Utah and United States constitutions in order to preserve the free speech rights of others, outbursts or similar actions which disrupts or is likely to disrupt any government meeting or proceeding, is prohibited.

R23-20-6. Expedited Appeals-Free Speech Activities.

(1) Claims eligible for expedited appeal. The following determinations of claims regarding a free speech activity may be appealed as provided below:

(a) A determination by the Managing Agency that a proposed event or activity is a commercially related special event and not exempted as a free speech activity;

(b) A claim by an applicant that the Managing Agency's denial, or condition of approval, of a proposed route, time or location for a free speech activity constitutes a violation of this rule or an unlawful time, place or manner restriction; or

(c) Any other claim by an applicant that any action by the state regarding the proposed free speech activity impermissibly burdens constitutionally protected rights of the applicant, sponsor, participants or spectators.

(2) Process for Expedited Appeal:

(a) The State acknowledges an obligation to process appeals regarding a free speech activity promptly so as to not unreasonably inhibit or unlawfully burden constitutionally protected activities. Any time limit stated below may be lengthened if agreed to by the appellant and the Managing Agency.

(i) As soon as reasonably possible, but no later than two (2) working days after receipt of a completed registration, the Managing Agency shall issue a determination, which may include lawful conditions, or notice of denial of the registration application.

(b) The Managing Agency may deny the requested activity if:

(i) the requested activity does not comply with the applicable rules;

(ii) the registrant attempts to register a free speech activity, but the Managing Agency determines that it is a commercial activity;

(iii) the event would disrupt, conflict or interfere with a state sponsored activity, a time or place reserved for another free speech activity, the operation of state business, and such determination is in accordance with applicable constitutional provisions; and/or

(iv) the event poses a safety or security risk to persons or property and such determination is in accordance with applicable constitutional provisions.

(c) The Managing Agency may place conditions on the approval that alleviates such concerns and such conditions are in accordance with this rule and applicable constitutional provisions.

(i) If the applicant disagrees with a denial of the request or conditions placed on the approval, the applicant may appeal the Managing Agency's determination by delivering the written appeal and reasons for the disagreement to the Managing Agency.

(ii) Within three (3) working days after the Managing Agency receives the written appeal, the Managing Agency may modify or affirm the determination.

(iii) If the matter is still unresolved after the issuance of the Managing Agency's reconsideration determination, the applicant may appeal the matter, in writing, within ten (10) calendar days to the Executive Director of the Department of Administrative Services who will determine the process of the appeal and provides for a determination within five (5) working days.

(e) If the applicant for a free speech activity needs a more expeditious process of an appeal, upon written request of the applicant, the Attorney General or designee may advise the Executive Director of the Department of Administrative Services or the Managing Agency of the need to make an immediate consideration of the appeal.

R23-20-7. Expedited Review of Free Speech Concern.

If any person claims to be inhibited from the exercise of constitutionally protected free speech by a public officer, officer or other person at any state facilities and grounds, such person is advised to promptly notify the Managing Agency. The Managing Agency will then take reasonable steps in an attempt to resolve the matter.

KEY: rally, free speech, assembly

Date of Enactment or Last Substantive Amendment: June 7, 2007

Authorizing, and Implemented or Interpreted Law: 63A-5-103; 63A-5-204